IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Crl.MC.No. 3584 of 2007()

AGAINST THE ORDER IN STC. 2405 /2005 IN
STC.96/2007 of MUNSIFF'S COURT, PAYYANNUR

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PETITIONER: ACCUSED

SHAJI M.K., S/O GOPI M.K.,
CARPENTER, OLAVARA MUNDYA,
UDUMBANTHALA P.O., ELAMBACHI(VIA),
KANNUR.

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS: COMPLAINANT

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1. T.JAFAR, S/O MUHAMMED HAJI,
'SAKKEENA MANZIL', KAVVAYI P.O.,
PAYYANNUR, KANNUR.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3584 of 2007

Dated this the 29th day of November, 2007

O R D E R

Petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance was taken as early as in 2005. The case has already been transferred to another court. Consequent to non appearance of the petitioner before such court, a warrant of arrest has been issued against the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful or deliberate. He is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in

accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. The petitioner submits that his marriage is scheduled to take place on 19.01.08. In the peculiar facts and circumstances there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 17.12.07. On or before that date, the petitioner shall surrender before the learned Magistrate and seek regular bail.

6. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-